

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**WILLIAM H. KENNEY,**

**Plaintiff,**

**vs.**

**COMMISSIONER OF SOCIAL  
SECURITY,**

**Defendant.**

) **Case No. 5:09 CV 1313**

)

) **Judge Dan Aaron Polster**

)

) **MEMORANDUM OF OPINION**

) **AND ORDER**

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On June 9, 2009, Plaintiff William H. Kenney appealed an alleged adverse decision of the Commissioner of Social Security to the United States District Court for the Northern District of Ohio. (ECF No. 1.) The case was assigned to me by random lot, and was then automatically referred to Magistrate Judge James S. Gallas for preparation of a Report and Recommendation (“R & R”) pursuant to Local Rule 72.2(b)(1). (See non-document entries dated, respectively, 6/9/09 and 6/24/09.) The Magistrate Judge issued a scheduling order on June 25, 2009. (ECF No. 5.) On June 29, 2009, Plaintiff filed a motion to dismiss stating as grounds, “I was given some bad information about my case and do not prefer to continue with this any further please dismiss thank you.” (ECF No. 6.)

On June 29, 2009, the Magistrate Judge issued an R & R, recommending that the undersigned grant the motion to dismiss the case without prejudice, pursuant to Fed. R. Civ. P.

41(a)(1)(A). (ECF No. 7.) The Magistrate Judge also gave Plaintiff advice on how to receive free legal services immediately or in the future. (Id.)

Under the relevant statute:

Within *ten days* after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C) (1988). The failure to timely file written objections to an R & R constitutes a waiver of a *de novo* determination by the district court of any issues covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff'd*, 474 U.S. 140 (1985); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). In this case, more than ten days have elapsed since the Magistrate Judge issued the R & R, and Plaintiff has filed neither an objection nor a request for an extension of time to file one.

The R & R recommends granting Plaintiff's request and dismissing his case without prejudice. Since the Court can envision no good reason why Plaintiff would object to this resolution, the Court hereby **ADOPTS** the R & R (**ECF No. 7**) and hereby **DISMISSES** the **case WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

/s/ Dan Aaron Polster July 21, 2009  
**Dan Aaron Polster**  
**United States District Judge**